STATE OF MAINE
PUBLIC UTILITIES COMMISSION

November 4, 2003

MID-MAINE TELECOM, Request for Universal Service Funding

Docket No. 2002-496

ORDER MODIFYING AMOUNT OF UNIVERSAL SERVICE FUNDING

MID-MAINE TELECOM, Implementation of 2002 Amendments to Chapter 204

Docket No. 2003-490

ORDER APPROVING BSCA CALCULATIONS SUBJECT TO TRACKING

WELCH, Chairman; DIAMOND and REISHUS Commissioners

I. SUMMARY

In this Order, we approve the proposal[1] filed by Mid-Maine Telecom to decrease its funding from the Maine Universal Service Fund in conjunction with increases to its rates for local exchange service and the implementation of changes to its basic service calling areas (BSCAs). These changes all take effect on December 15, 2003.

II. BACKGROUND

On March 5, 2003, we approved universal service funding (USF) for Mid-Maine Telecom. The order required the company to file a plan for increasing its local rates to the same level as those of Verizon, as required by the USF rule, Chapter 288, § 3(B)(3). We granted the Company an exemption pursuant to Chapter 288, § 3(C)(2) (which allows a delay of up to three years from the date of initial USF) at least until the time when BSCA expansions were to occur. We suggested that increasing local rates all the way to Verizon levels at that time would be acceptable without further justification, but also recognized that the access parity statute, 35-A M.R.S.A. § 7101-B, might be amended to state a later

[1] Mid-Maine initially proposed, in a motion entitled Telecom "Request to Continue MUSF Amount At Current Level," that it would not reduce its current level of USF, even though the revenues resulting from local rates increases will exceed the access revenue losses that will occur as a result of implementing the BSCA expansions. Mid-Maine proposed that it repay the excess money to the MUSF at the time of any rate adjustment following the "tracking period" required for the BSCA implementation. On October 27, 2003, following discussions with the Commission staff, Mid-Maine filed a revision to the earlier motion entitled "Request to Continue MUSF Amount At Current Level: Modified Request." The revised title is misleading because in fact, Mid-Maine proposed that the present level of USF would *not* continue, but would instead be reduced to offset the net effect of the local rate increase and the BSCA-related access revenue losses on an overall revenue-neutral basis.

deadline for access reductions and (implicitly) local rate increases. The statute was amended to allow LECs to delay reductions in intrastate access rates to interstate levels until May 31, 2005. The amended statute also allows (and, under some circumstances not present here, requires) LECs to phase in local rate increases and USF.

The March 5 order (which pre-dated the amendment to 35-A M.R.S.A. § 7101-B) required the Company to reduce its intrastate access rates to interstate levels by May 30, 2003, the deadline previously imposed by the statute. Notwithstanding the statutory change, Mid-Maine complied with the order. Accordingly, USF in the amounts ordered in the March 5 order began shortly thereafter.

Mid-Maine filed a local rate plan on May 15, 2003, proposing that on the date that it would expand its BSCAs (now determined to be December 15, 2003), it would increase its local rates to Verizon's rates (for "equivalently-sized exchanges") as of October 1, 2003. In an order issued on June 23, 2003, we approved the plan, subject to the condition (agreed to by the Company) that the Company propose a further rate increase early in 2004 so that its rates would remain equal to those of Verizon, which will also change on December 15, 2003. Verizon's rates will change both for the purpose of offsetting BSCA implementation revenue losses and additional costs and because Verizon is eliminating its local service "rate group" structure.[2]

Although the Mid-Maine's intrastate access rates are now at interstate levels, it will experience access revenue losses as a result of the BSCA expansions that will become effective on December 15, 2003 (the addition of all contiguous exchanges to the BSCA for each exchange). These expansions are required by the November 2002 amendments to Chapter 204. Calls to the areas that are being added to the companies' BSCAs that previously incurred long distance toll charges will become local so that all the access revenue associated with those minutes is lost. This effect would require additional USF. Nevertheless, the local rate increases that also will become effective on December 15, 2003 will more than offset the projected net revenue losses due to BSCA expansions (and associated cost increases), thereby resulting in a reduction of its need for USF. On an overall basis, the revenues available to the companies should be the same, i.e., the net effect of all changes is intended to be revenue neutral. With BSCA changes, however, revenue neutrality is difficult to achieve using advance predictions, because of the difficulty of predicting "take" rates for Premium and Economy calling options and local per-minute rates. We discuss the BSCA implementation and rate effects in greater detail below.

Mid-Maine has not proposed any specific local rate increases (beyond those to increase its rates to Verizon levels) to cover the access revenues losses and costs that will occur as a result of the BSCA expansions. We agree that this approach is appropriate. Mid-Maine is required to increase its local rates to equal those of Verizon as a condition of receiving USF. We do not at this time see any reason to require Mid-Maine to implement rates that are higher than Verizon's, although that result would be permitted under Chapter 288, § 3(C)(3). BSCA expansion diminishes Mid-Maine's revenues; it is no less appropriate

[2] Under a "rate group" structure, the local rates for an exchange are based on the number of lines that may be called from an exchange on a toll free basis (i.e., the number of lines in the exchange's BSCA).

to cover these revenue losses through USF than it is to cover revenue losses caused by the need to lower access rates (which Mid-Maine has already done).

III. DISCUSSION

In its October 3, 2003 filings, Mid-Maine provided calculations of the BSCA revenue losses (which, as explained below, are known and certain amounts) and estimates (less certain) of revenue gains from local rate changes. The BSCA-related revenue changes include access revenue losses that will occur because calls to the areas that are being added to the Company's BSCAs previously incurred long distance toll charges (and generated access revenues for the Company), but are now local calls.[3] They also include changes in local revenue due to changes in the mix of subscribership to the Premium and Economy options, as well as changes due to the change in the rate (from 50 cents per call to 5 cents a minute) for economy customers who call outside the flat-rate calling areas of this Economy option but within the BSCA. The Company also included estimates of small amounts of BSCA-related programming, facility and administrative costs. As discussed in greater detail below, it is difficult to predict some of these elements.

Chapter 204, § 5(A) states that a LEC that implements new or modified BSCAs may propose rates that will cover its additional costs and net revenue losses that are attributable to a BSCA change. We interpret that provision to allow a company that is already receiving USF to seek additional support. (In this case, the need for additional support will be more than offset by revenues local rate increases). Section 5(C) requires LECs to "track" revenue effects for a period of at least 12 months. If the LEC's net revenue loss is greater than predicted (i.e., greater than the prediction upon which the rates approved pursuant to Section 5(A) were based), the LEC may request recovery of the shortfall and propose rates (or a change in USF) that will collect the correct amount of revenue loss. If the LEC's net revenue loss is less than predicted (and included in rates approved pursuant to Section 5(A) or funded by USF), it must return the excess to customers (or the Universal Service Fund) and must propose future rates (or ongoing support) that will collect the correct amount to offset the revenue loss.

There is no reason for the BSCA tracking account to track lost access and B&C revenues. Once these amounts are calculated, they never change for ratemaking or USF purposes. The number of minutes and messages (and, therefore, access and B&C revenue) that Mid-Maine will lose as a result of the BSCA expansions is known in advance, by using an appropriate test period. We have therefore used that amount in this Order to alter the amount of universal service funding. In addition, one of the components of local service revenue will be permanently lost and its amount known in advance. That is the revenue from the rate of 50 cents per call for calls by Economy option customers to exchanges within the customer's BSCA but outside the flat-rate calling area of the Economy option. (That rate is being replaced by a rate of 5 cents per minute.)

It is necessary, however, to track the amount of additional local revenue that will offset the known amounts described above. The local replacement revenues include revenues available from the increases to local rates for both the Premium and Economy options and

[3] The Company has no retail toll revenue; it only provides access to interexchange carriers.

from a new rate of 5 cents per minute for calls by Economy option customers to exchanges within the customer's BSCA but outside the flat-rate calling area of the Economy option (replacing the 50 cents per-call rate). These revenues cannot be fully predicted because the realized mix of customers subscribing to the Premium and Economy options may differ from predicted levels. Predictions are difficult to make because, ultimately, only customers can determine which of the calling options has greater value to them, and the calling areas available under each option will have changed. It is also difficult to predict revenues that the Company will receive from the new 5 cents per minute rate. The new rate may be more attractive to some customers and less attractive to others than the former 50 cents per call rate and might even influence customer choice for the two calling options.

Chapter 204, § 5(C) does not expressly require "tracking" of expenses and new investment, or the recovery by the utility or by ratepayers of the difference between the estimates embodied in rates (or USF) and actual costs, notwithstanding the fact the Section 5(A) allows a LEC to propose rates (or USF) in advance of implementation that will cover those costs. The level of costs estimated by the Company is relatively small, but it provided few details in support of its estimates of those costs, and we have not subjected them to close examination. We therefore find that it is reasonable, as a condition of granting universal service funding that will cover those costs, that the Company keep records of the actual BSCA-related implementation expenses and investment, and that it provide that information to the Commission when such expenses and investment are completed, but no later than March 15, 2005. Tracking should be for a period that covers all expenses related to BSCA and any changes in investment attributable to the BSCA expansions, but not later than January 31, 2005. Results shall be presented in absolute and annualized forms.

With that information, we may consider whether to order a change in future USF funding to reflect the differences between present estimates and actual costs. We do not decide at this time whether we would order reconciliation for the differences during the tracking period. We note, however, that because the cost changes presently estimated by the Companies are small, if the projections are reasonably accurate, rate changes or reconciliation may be unnecessary.

Under Mid-Maine's rate plan, the Company will change its local rates again early in 2004. USF funding will change at the same time. No further changes are required under the June 23, 2003 approving the company's rate plan. Nevertheless, it may be necessary to adjust USF following the BSCA tracking. The Company shall track the replacement revenues for 12 months and report the results to the Commission on or before March 15, 2005 so that, if necessary, they may be incorporated into the USF that will become effective for the third quarter of 2005. Because notice of the BSCA changes will be relatively close to the December 15, 2003 implementation date, and many customers may not respond immediately to the calling options contained in the notice, we believe it makes sense for the 12 months of tracking to begin on February 1, 2004. The results shall be compared to the projections used in the October 3, 2003 filings.

IV. RATE AND USF CHANGES FOR EFFECT ON MAY 31, 2005

Under Mid-Maine's rate plan, the Company will implement a further increase to local rates early in 2004 to bring its rate up to the Verizon rates that will become effective on December 15, 2003. We note that in *Maine Public Utilities Commission, Investigation of*

Compliance of Verizon Maine with Amended 35-A M.R.S.A. § 7101-B, Docket No. 2003-358, we recently decided that Verizon would phase in the access rate reductions required by amended Section 7101-B on May 31, 2004 and May 31, 2005.[4] We did not decide if Verizon would be allowed to offset those access rate decreases with increases to local rates.[5] That issue will be addressed in further proceedings. If we do permit a local rate increases by Verizon that will become effective on May 31, 2004 and May 31, 2005, Chapter 288 requires the Company to increase its local rates to meet the Verizon level as of that date.

As discussed above, the Company also needs to track BSCA-related changes in local revenues and costs. Finally, the Company may experience other changes in sales that may need to be taken into account in any possible revisions following the BSCA tracking period. Therefore, the Company shall file the most recently available billing units for all services by March 15, 2005.

Accordingly, we

1. APPROVE a reduction of $96,556 in the amount of universal service funding for Mid-Maine Telecom, from the present level of $813,080, resulting in a revised funding amount or $716,524, effective from December 15, 2003 until modified by later order;

2. APPROVE, subject to the maintenance by Mid-Maine Telecom of tracking accounts and the reporting of the tracking results, as described herein, the calculations by Mid-Maine of expected revenue losses and gains and cost changes as a result of BSCA expansions;

3. ORDER Mid-Maine Telecom to file a proposal no later than April 1, 2003, to modify its rates further to equal those of Verizon-Maine in light of changes that will occur to the local rates of Verizon-Maine on December 15, 2003 and shortly thereafter;

4. ORDER Mid-Maine Telecom to maintain a tracking account from February 1, 2004 until January 31, 2005 for net revenue changes (from changes in access and local rates and billing units) resulting from additions to basic service calling areas (BSCAs) that will become effective on December 15, 2003, to report the results of that tracking on or before March 15, 2005, and to reimburse the Maine Universal Service Fund for any over-funding consistent with the requirements of Chapter 204, § 5(C) and this Order;

5. ORDER Mid-Maine Telecom to maintain a tracking account from the commencement of the incurrence of expenses until January 31, 2005 for changes in revenue requirement (expenses and investment) resulting from of the implementation of the BSCA changes that will take place on December 15, 2003, and to report the results of that tracking on or before March 15, 2005;

---

[4] We decided this issue at our deliberations on October 9, 2003, but no Order has issued yet in that case.

[5] We will determine this issue in the future depending on whether the decreases meet the definition, under Verizon's AFOR, of an exogenous change.

6. ORDER Mid-Maine Telecom to file the most recently available billing units for all their services on or before March 15, 2005.

Dated at Augusta, Maine, this 4th day of November, 2003.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Diamond
Reishus

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.

2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.

3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.